

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
STATE OF WASHINGTON,
DEPARTMENT OF SOCIAL & HEALTH
SERVICES, WESTERN STATE
HOSPITAL,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB Nos. 84-34 and 84-47

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

This matter, the consolidated appeals from the issuance of two \$250 civil penalties for the alleged violations of Section 9.03 of Regulation I, came before the Pollution Control Hearings Board, David Akana (presiding), Gayle Rothrock, and Lawrence J. Faulk, at a hearing in Lacey, Washington, on May 9, 1984.

Appellant was represented by Karen McCarty Lundahl, Assistant Attorney General; respondent was represented by its attorney Keith D. McGoffin. Olympia court reporter Betty Koharski recorded the

1 proceedings.

2 Having heard the testimony, having examined the exhibits, and
3 having considered the contentions of the parties, the Board makes these

4 FINDINGS OF FACT

5 I

6 On December 20, 1983, at about 8:58 a.m., while on routine patrol,
7 respondent's inspector saw light brown smoke emissions rising from the
8 power plant stack of appellant Western State Hospital located within
9 the 9700 block of Steilacoom Boulevard, in Tacoma. The inspector, a
10 qualified emissions observer, properly positioned himself and recorded
11 opacity readings exceeding 20 percent for 16 3/4 minutes during a
12 20-minute observation. Photographs of the plume were taken.

13 For the foregoing event, appellant was given a Notice of Violation
14 of Section 9.03(b)(2) of Regulation I and WAC 173-400-040(1). From
15 this followed a \$250 civil penalty and this appeal.

16 II

17 On December 29, 1983, at about 10:25 a.m., while on routine
18 patrol, respondent's inspector saw light brown smoke emissions rising
19 from the power plant stack at appellant's location. After properly
20 positioning himself, the inspector recorded opacity readings exceeding
21 20 percent for 9 1/2 minutes of a 35-minute observation period.
22 Photographs of the plume were taken.

23 For the foregoing event, appellant was issued a Notice of
24 Violation of Section 9.03(b)(2) and WAC 173-400-040(1). From this
25 followed a \$250 civil penalty and this appeal.

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW & ORDER
PCIB Nos. 84-34 & 84-47

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III

At the times of the observations, appellant was firing its steam boilers with wood pellets. The instantaneous steam demand can fluctuate on occasion, causing the boiler to emit visible emissions until adjusted manually or by automatic pneumatic controls.

While excessive visible emission can be caused by instantaneous steam demand, the opacity of the emissions are monitored by an instrument. The instrument was set to send an alarm if emissions exceeded 1.5 on the Ringelmann Chart. During the times of the observations, appellant was not aware of any alarm by the instrument. However, appellant does not know if the operators were near the alarm at the times of the observations. Although the instrument was and is maintained daily, its readings have not been shown to be calibrated with actual observations from a qualified visible emissions observer. In any event, the monitor apparently was not set to send an alarm before visible emissions exceeded No. 1 on the Ringelmann Chart, which is the emission limitation under Section 9.03(b)(1) of Regulation I.

IV

Appellant will be taking measures to eliminate the cause of the emissions. It anticipates completion in about six months.

V

Pursuant to RCW 43.21B.260, respondent has filed a certified copy of its Regulations I and II, and amendments thereto, which are noticed.

Section 9.03(b) of Regulation I makes it unlawful for any person to cause or allow the emission of any air contaminant for a period or

1 periods aggregating more than three minutes in any one hour which is
2 1) darker in shade than that designated as No. 1 (20 percent density)
3 on the Ringelmann Chart, or 2) of an opacity greater or equal to 20
4 percent.

5 WAC 173-400-040(1) similarly prohibits emissions exceeding 20
6 percent opacity.

7 Section 3.29 provides for a civil penalty of up to \$250 per day
8 for each violation of Regulation I.

9 VI

10 Any Conclusion of Law which should be deemed a Finding of Fact is
11 hereby adopted as such.

12 From these Findings of Fact the Board comes to these

13 CONCLUSIONS OF LAW

14 I

15 Appellant violated Section 9.03(b)(2) and WAC 173-400-040(1) on
16 the dates and times alleged.

17 II

18 In light of the circumstances of this case, and appellant's record
19 of three prior violations involving this boiler, the \$250 penalty
20 assessed for each violation is reasonable in amount and should be
21 affirmed.

22 III

23 Any Finding of Fact which should be deemed a Conclusion of Law is
24 hereby adopted as such.

25 From these Conclusions the Board enters this

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW & ORDER
PCHB Nos. 84-34 & 84-47

ORDER

Civil Penalty No. 5921 and No. 5932 each for \$250 are affirmed.

DATED this 14th day of May, 1984.

POLLUTION CONTROL HEARINGS BOARD

David Akana
DAVID AKANA, Lawyer Member

Gayle Rothrock
GAYLE ROTHROCK, Chairman

Lawrence J. Faulk
LAWRENCE J. FAULK, Vice Chairman

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER
PCHB Nos. 84-34 & 84-47